



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:	Issuance Date:
Public Notice No. 20000093	May 17, 2004
Stream:	Expiration Date:
Scioto River	June 16, 2004
Address comments to:	US Army Corps of Engineers, Huntington District
	502 Eighth Street
	ATTN: CELBHE
	Huntington, West Virginia 25701-2070

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application:

APPLICANT: Mr. Boone Coleman
Boone Coleman Construction, Inc.
32 State Route 239
West Portsmouth, Ohio 45663

LOCATION: The project is located at and south of the US 52 bridge over the Scioto River at mile point 1.0 in West Portsmouth, Scioto County, Ohio.

DESCRIPTION OF PROPOSED WORK: The Corps of Engineers originally authorized Mr. Coleman to dredge material from two existing sand and gravel bars on the left and right descending banks at mile points 1.0 and 1.1 on the Scioto River at the above location. This authorization occurred under Section 10 of the River and Harbors Act, and the conditions of the original authorization (dated September 17, 1992) included the removal of approximately 2,000 tons per year using rubber tired loaders and trucks. This authorization expired on December 31, 1997.

Subsequent to the expiration of this permit, Mr. Coleman continued to dredge material from the area without a permit. A cease-and-desist order was issued to Mr. Coleman on August 30, 2000, with a second order issued on December 9, 2003. The following approximate amounts of material have been removed from the area since the expiration of the last authorization:

1. 1997—5,000 tons
2. 1998—4,000 tons
3. 1999—10,858 tons
4. 2000—6,998 tons
5. 2001—13,548 tons
6. 2002—12,215 tons
7. 2003—7,810 tons
8. 2004—260 tons

The applicant has chosen to apply for an after-the-fact permit for the activity that has occurred since the expiration of the last permit on December 31, 1997. The applicant has also requested authorization to continue dredging material from this location with an individual permit. The applicant has indicated all materials dredged from this location will be immediately removed from the site, with no temporary stockpiling in the river. The excavated material will be taken

and used in construction activities in upland locations off-site.

As previously described, the work was completed without prior authorization. As required by the rules and regulations governing the Department of the Army permit program, it was determined that since this work does not present an immediate threat to life or property, an after-the-fact application would be accepted and processed. All investigations and legal proceedings will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

Plans of the proposed work are attached to this notice.

The National Register of Historic Places has been consulted and it has been determined that there are no properties currently listed on the register that are in the area affected by the project. On September 1, 1992, the Ohio Historical Society (OSHPO) indicated by letter the original authorization would not impact any historic properties listed in or eligible for the National Register of Historic Places.

This project is located within the known or historic range of the following endangered or threatened species:

Indiana bat (E), Virginia spiraea (T), small whorled pogonia (T), the rayed bean mussel (CE), the sheepnose mussel (CE), and the timber rattlesnake (PC).

The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. In a letter dated August 20, 1992, the US Fish and Wildlife Service indicated the original permit authorization would not have an effect on any listed species. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).


Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest that may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values,

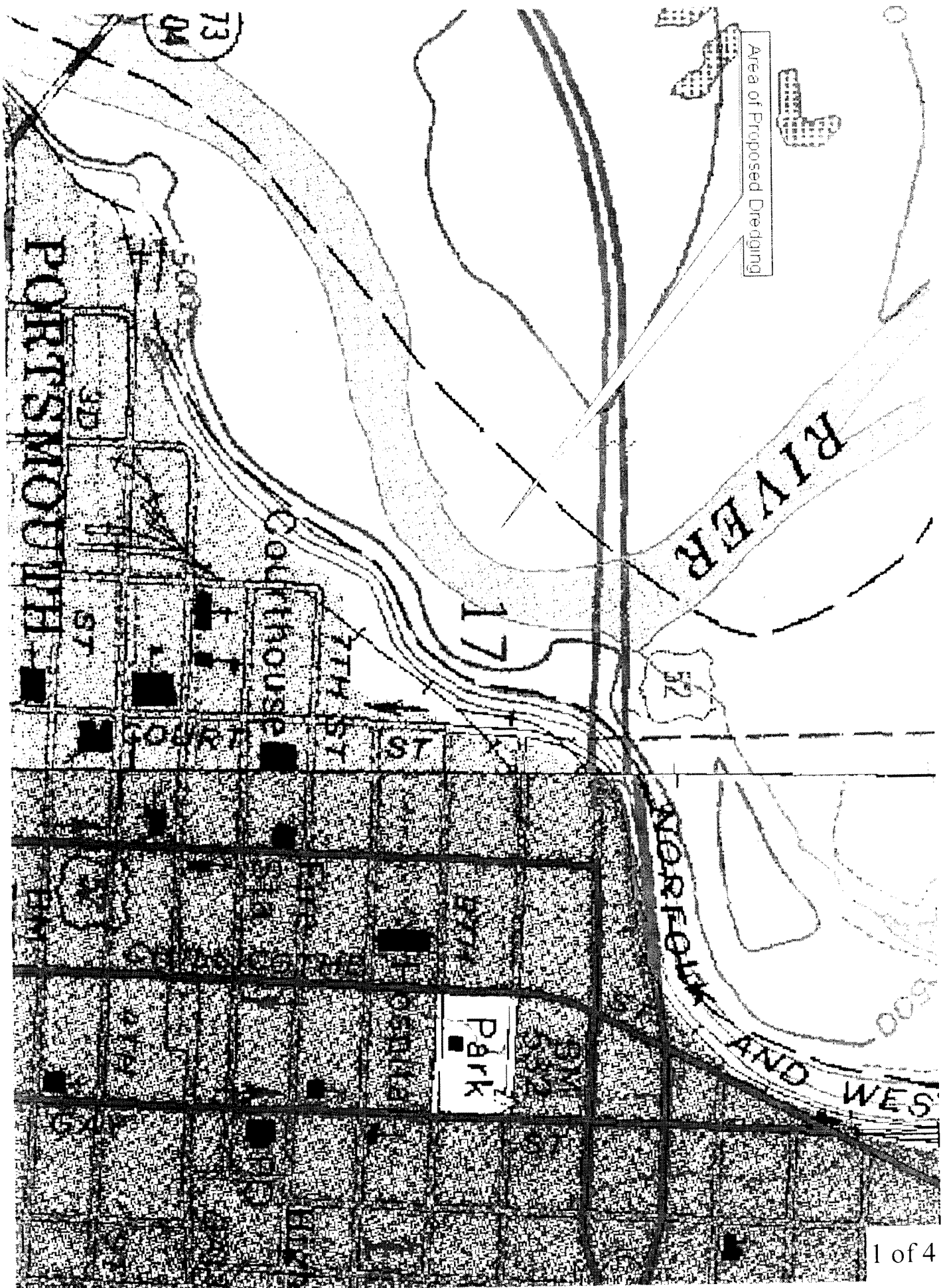
flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

If you have any questions concerning this public notice, please contact James B. Spence at (304) 399-5210.


Ginger Mullins, Chief
Regulatory Branch

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27-RIVER

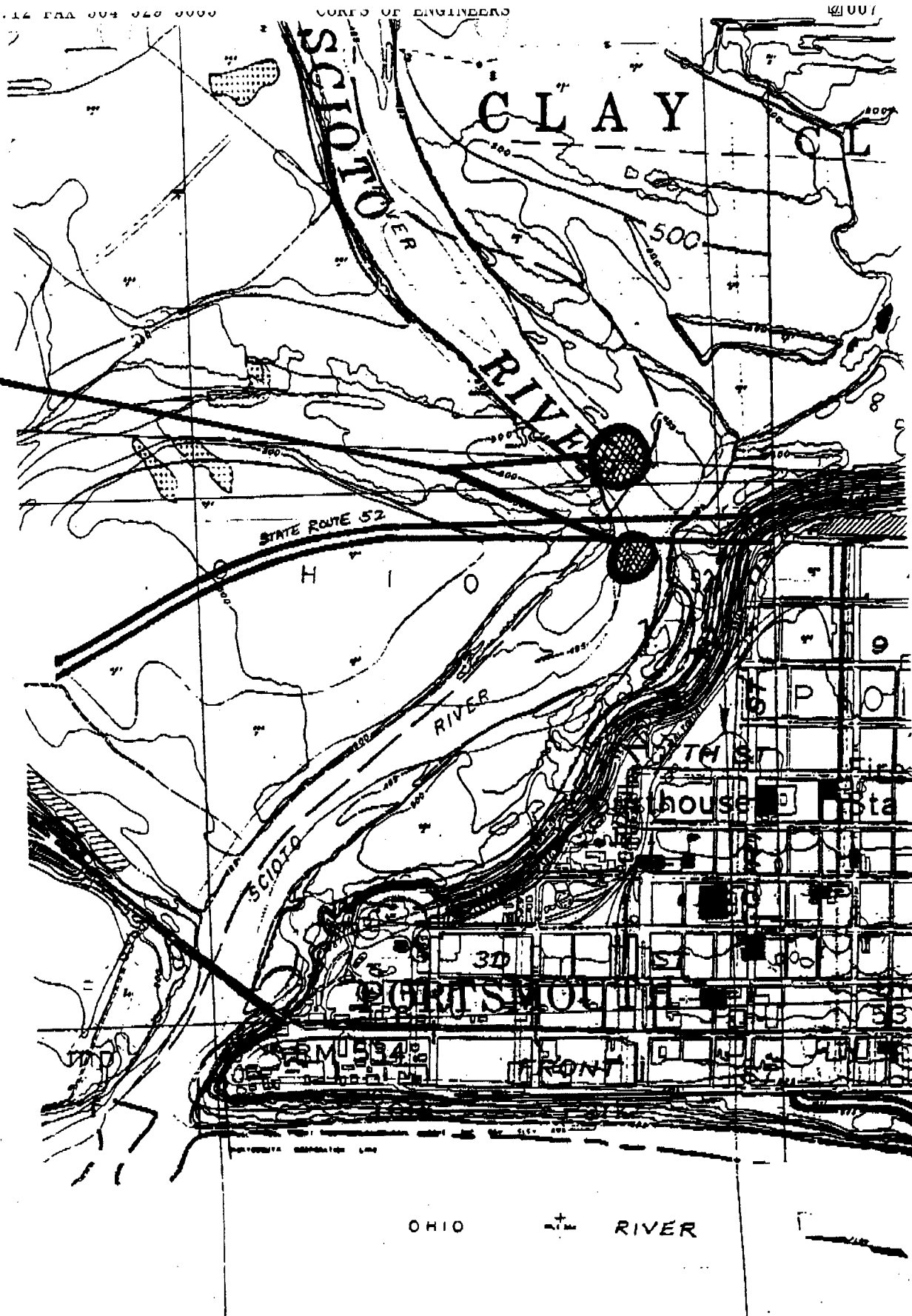
COLEMAN BOONE
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OHIO STATE
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COLEMAN BOONE
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ONE CONSTRUCTION CO.
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WORK
AREAS



VICINITY MAP
BOONE COLEMAN CONSTRUCTION, INC.
SCIO TO RIVER DREDGING PROJECT
SCIO TO COUNTY, OHIO

